IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 1528 of 1995

Between:

1 Farthtunnisa , W/o. late Md. Sahabuddin,
Station Road, Sirpur Town,
Adilabad District
2 Md. Imaduddin, S/o. Md. Sahabuddin,
Station Road, Sirpur Town,
Adilabad District

..... PETITIONER(S)

AND

1 The Executive Engineer I & CADD, Special Minor Irrigation Division ,
Utnoor , Adilabad District
2 The Project Officer, ITDA at
Utnoor , Adilabad District
3 The Dist Collector,
Adilabad. Adilabad District
4 Mode Ramulu, S/o. Bhakkayya, Contractor
R/o. Dhorpally(V),Sripur (M), Adilabad Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ , direction or order more particularly the in the nature of Writ of Mandamus, declaring the action of the respondents in proposing the construction of Tank in the land of Petitioners in S.No. 175 and 180, an extent of Ac.6.35 and 5.73 respectively, the wet land ,situated at Dhorpally (V),Sirpur (M),Adilabad Dist. as illegal, arbitrarily and unconstitutional and for extraneous consideration.

Counsel for the Petitioners: MR.T.BHEEMSEN & T.V.PRANAI KUMAR

Counsel for the Respondent Nos 1 to 3: GP FOR IRRIGATION & COMM AREA DEV.

Counsel for Respondent NO.4: None appeared

The Court made following:

ORDER:

By this writ petition, the petitioners seek to declare the action of the respondents in proposing to construct a tank in their land without initiating land acquisition proceedings, as illegal, arbitrary and unconstitutional.

The petitioners claim to be owners of Ac.6-35 cents of land in survey No.175 and Ac.5-73 cents of land in survey No.180 of Dhorpally village, Sirpur Mandal of Adilabad District. The petitioners state that respondents 1 to 3 without giving any notice to them and without acquiring their land under due process of law, are proposing to construct a tank in their land and some other land, by awarding contract to the fourth respondent, who proclaims in the village that he is going to commence the work shortly. Despite several representations made by the petitioners to the first respondent requesting compensation for the portion of their land affected on account of the construction of Tank, the respondents have not taken any action in the matter so far. Hence, the writ petition.

A counter affidavit is filed on behalf of respondents 1 to 3. It is stated that on account of construction of irrigation Tank for the benefit of Tribals of Govindapur Village, Hamlet of Dhorepally Village, Sirpur-T Mandal, the land of the petitioners to an extent of Ac.5-03 cents out of Ac.6-35 cents in survey No.175 apart from the land of others, has come under submergence, for which land acquisition proposals were submitted to the Special Deputy Collector, Utnoor and it is under process. However, it is submitted that the work was commenced on 17-3-1994 and it is almost in the stage of completion. Thus, respondents 1 to 3 pray to vacate the stay granted by this Court in the matter.

When the matter came up on 23-8-2004, this Court directed respondents 1 and 2 to explain the present status in the matter by the next date of hearing. When the matter came up on 01-9-2004, the learned Government Pleader appearing for respondents 1 and 2 submitted that construction was already made in the land of the petitioners and the official respondents are willing to pay compensation to the petitioners. There upon, this Court directed the Government Pleader to file affidavit

to the above effect.

When the matter came up today, the learned Government Pleader for Irrigation filed additional counter-affidavit on behalf of respondents 1 and 2 stating that land acquisition proposals were submitted to the Sub-Collector, Asifabad on 16-09-2004 for further process and for the latest value of the submergence land, and in pursuance thereof the Mandal Revenue Officer, Sirpur-T Mandal submitted certificate, dated 16-09-2004 furnishing the market value of the acquired land as Rs.10,000/- per acre in the year 1994-95 and Rs.12,000/- per acre during the year 2004. It is stated that the second respondent-Project Officer, I.T.D.A., Utnoor agreed to arrange the payment within six months. Thus, respondents 1 and 2 pray to grant six months time for completing the acquisition proceedings.

Heard the learned counsel for the petitioner and the learned Government Pleader for Irrigation.

Though construction work of the Tank in question was commenced on 17-3-1994 in the land of the petitioner to an extent of Ac.5-03 cents in survey No.175, no amount has been paid to the petitioners towards compensation for all these ten years. Having regard to the facts and circumstances of the case and considering the submission of the learned Government Pleader for Irrigation seeking six months more time for payment of compensation in the matter, I deem it appropriate to dispose of the writ petition in the following terms:

Respondents 1 to 3 shall pay compensation to the petitioners in accordance with the Land Acquisition Act, in respect of the land to an extent of Ac.5-03 cents in survey No.175 of Dhorpally village, Sirpur Mandal, Adilabad District, within six months from the date of receipt of a copy of this Court. It is made clear that respondents 1 to 3 shall, while calculating the compensation payable to the petitioners, take into consideration the land value as certified by the Mandal Revenue Officer, Sirpur (T) Mandal in Rc.No.M.I./2004, dated 16-09-2004, and the date of taking possession of the land from the petitioners as the date of commencement of work i.e. 17-3-1994. No costs.

22-9-2004

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To

1 The Executive Engineer I & CADD, Special Minor Irrigation Division ,
Utnoor , Adilabad District
2 The Project Officer, ITD at
Utnoor , Adilabad District
3 The Dist Collector,
Adilabad District, Adilabad
4. Two C.Cs. to G.P. for Irrigation, High Court of A.P, Hyderabad (OUT)

5. Two C.D. copies